



January 28, 2014

HOUSE BILL No. 1403

DIGEST OF HB 1403 (Updated January 28, 2014 2:49 pm - DI 75)

Citations Affected: IC 36-1.

Synopsis: Regulation of residential rental property. Provides that the owner of a rental unit assessed any fee by a political subdivision pertaining to the rental unit may: (1) notify the tenants of the rental unit of the assessment of the fee; and (2) require the tenants of the rental unit to reimburse the owner for the payment of the fee. (Current law refers to "inspection, registration, or other fee".) Provides that any fee assessed and collected by a political subdivision pertaining exclusively to a rental unit or rental community must be maintained in a special fund dedicated solely to reimbursing the costs actually incurred by the political subdivision relating to the imposition and amount of the fee. Provides that a political subdivision may require a rental unit's owner
(Continued next page)

Effective: June 30, 2014.

McMillin, VanNatter, Austin

January 16, 2014, read first time and referred to Committee on Government and Regulatory Reform.
January 28, 2014, amended, reported — Do Pass.

HB 1403—LS 6990/DI 75



or landlord to obtain a permit only if: (1) a fee is not being charged for such a permit; (2) a permit does not expire but a political subdivision may require a new owner of a rental unit property to obtain a permit; and (3) only one permit is required for a rental unit community. Provides that a political subdivision may adopt a program for inspecting rental units, but that the political subdivision may not inspect a rental unit or impose a fee pertaining to a rental unit: (1) that is managed by a professional real estate manager; and (2) if the rental unit has been inspected during the previous 12 months by an inspector with specified qualifications. Provides that a political subdivision may inspect any rental unit upon receipt of a claim that the rental unit does not comply with applicable code requirements. Provides that a political subdivision may impose a penalty for an act or omission that is a nuisance or a violation of the political subdivision's enforceable ordinances or codes, subject to certain conditions. Provides that a political subdivision may require inspection of rental units if the inspections are done by inspectors with specified qualifications. Provides that if a rental unit is safe and habitable with respect to prescribed aspects, the rental unit satisfies any inspection requirements. Specifies that a rental unit's owner or landlord may be required to register with a political subdivision. Provides that a political subdivision may not inspect a rental unit or impose a fee pertaining to the inspection of a rental unit if certain conditions are met. Provides that a political subdivision may assess an annual registration fee. Repeals superseded statutes relating to local regulation of residential landlord and tenant relations.



January 28, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1403

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-1-20-2, AS ADDED BY P.L.212-2011,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JUNE 30, 2014]: Sec. 2. (a) Except as provided in subsection (b), the
4 owner of a rental unit assessed any ~~inspection, registration, or other~~ fee
5 by a political subdivision pertaining to the rental unit may:
6 (1) notify the tenants of the rental unit of the assessment of the
7 fee; and
8 (2) require the tenants of the rental unit to reimburse the owner
9 for the payment of the fee.
10 (b) Tenants of a rental unit may not be required to reimburse the
11 owner of a rental unit for fees assessed by a political subdivision
12 relating to the construction of the rental unit, such as building permit
13 fees.
14 SECTION 2. IC 36-1-20-3, AS ADDED BY P.L.212-2011,

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SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014]: Sec. 3. Any ~~inspection, registration, or other~~ fee assessed ~~under section 2 of this chapter~~ and collected by a political subdivision **pertaining exclusively to a rental unit or rental unit community** must be maintained in a special fund dedicated solely to reimbursing the costs ~~reasonably related to services actually performed~~ **incurred** by the political subdivision ~~that justified relating to~~ the imposition and amount of the fee. Each fund shall be maintained as a separate line item in the political subdivision's budget. Money in the fund may not at any time revert to the general fund or any other fund of the political subdivision.

SECTION 3. IC 36-1-20-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014] Sec. 3.5. (a) **A political subdivision may not require a rental unit's owner or landlord to do any of the following:**

(1) **Except as provided in subsection (b), obtain a permit to lease the rental unit.**

(2) **Participate in a class or government program as a condition for leasing the rental unit.**

(b) **Notwithstanding subsection (a), a political subdivision may require a rental unit's owner or landlord to obtain a permit only as follows:**

(1) **A fee may not be charged to obtain a permit.**

(2) **Except when there is a change of ownership of the real property, a permit does not expire. A political subdivision may require a new owner of the real estate to obtain a new permit.**

(3) **Only one (1) permit may be required for a rental unit community.**

SECTION 4. IC 36-1-20-4 IS REPEALED [EFFECTIVE JUNE 30, 2014]. Sec. 4: (a) **As used in this section, "regulation" refers to an ordinance, rule, or other enactment by a political subdivision relating to any of the following:**

(1) **Landlord and tenant relations:**

(2) **Rental agreements:**

(3) **Real property subject to a rental agreement:**

(b) **A regulation that does any of the following may not be adopted after February 28, 2013:**

(1) **Requires an owner or landlord to be licensed or to obtain a permit from the political subdivision to lease a rental unit:**

(2) **Requires an owner or landlord to enroll or participate in a class or government program as a condition for leasing a rental**



unit:

(3) Imposes or increases a fee or other assessment for any of the following:

(A) Inspection of a rental unit;

(B) Registration of an owner, landlord, or rental unit;

(C) Any other purpose related to the purposes listed in subsection (a);

(c) This chapter does not prohibit a political subdivision from:

(1) establishing a rental unit inspection program; or

(2) imposing or increasing a fee relating to the construction of a rental unit, such as a building permit fee;

(d) This section expires July 1, 2014.

SECTION 5. IC 36-1-20-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014]: **Sec. 4.1. (a) This chapter does not prohibit a political subdivision from establishing and enforcing a program for inspecting rental units. However, after June 30, 2014, a political subdivision may not inspect a rental unit and may not impose a fee pertaining to the inspection of a rental unit that satisfies all of the following:**

(1) The rental unit is managed by a professional real estate manager.

(2) The rental unit has been inspected or is part of a rental community that has been inspected during the previous twelve (12) months by an inspector who satisfies any of the following:

(A) The inspector is employed by or performs inspections for government agencies, such as the United States Department of Housing and Urban Development and the Indiana Housing and Community Development Authority.

(B) The inspector is a registered architect.

(C) The inspector is a professional engineer.

(D) The inspector is employed by or performs inspections for financial institutions or insurance companies authorized to do business in Indiana.

(E) The inspector satisfies qualifications for an inspector of rental units prescribed by the political subdivision.

(3) The inspector referred to in subdivision (2) has issued written verification to the owner or landlord of the rental unit or rental unit community (as applicable) that the rental unit or rental unit community meets or exceeds the standards described in subsection (b).

(b) An inspection report that shows that a rental unit or a rental



unit community is safe and habitable with respect to the following satisfies a political subdivision's inspection requirement for the rental unit:

- (1) Electrical supply and electrical systems.
- (2) Plumbing and plumbing systems.
- (3) Water supply, including hot water.
- (4) Heating, ventilation, and air conditioning equipment and systems.
- (5) Bathroom and toilet facilities.
- (6) Doors, windows, stairways, and hallways.
- (7) Functioning smoke detectors.
- (8) Structure in which a rental unit is located.

A political subdivision may not add to the requirements of this subsection.

(c) Notwithstanding subsection (a), a political subdivision may inspect a rental unit if the political subdivision has reason to believe, or if the political subdivision receives a complaint that, the rental unit does not comply with applicable code requirements. However, the political subdivision may not impose a fee in connection with the inspection of a rental unit that is otherwise exempt from inspection under subsection (a). If the inspection of a rental unit reveals a violation of applicable code requirements, the owner of the rental unit may be subject to a penalty as provided in section 6 of this chapter.

SECTION 6. IC 36-1-20-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2014]: Sec. 5. (a) This chapter does not prohibit a political subdivision from establishing and enforcing a registration program for rental units within the political subdivision.

(b) A political subdivision may impose on an owner or landlord of a rental unit an annual registration fee of not more than five dollars (\$5).

(c) A registration fee imposed under subsection (b) covers all the rental units in a rental unit community. However, if a rental unit is not part of a rental unit community, a registration fee may be imposed for each separate parcel of real property on which a rental unit is located.

(d) If the ownership of a rental unit community or the ownership of a parcel of real property on which a rental unit is located changes, a political subdivision may require the new owner of the rental unit community or new owner of the real estate parcel to:



1 (1) pay an annual registration fee of not more than five
2 dollars (\$5); and

3 (2) provide updated registration information to the political
4 subdivision;

5 not later than thirty (30) days after the change of ownership.

6 SECTION 7. IC 36-1-20-6 IS ADDED TO THE INDIANA CODE
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE
8 30, 2014]: Sec. 6. (a) This chapter does not prevent a political
9 subdivision from imposing and collecting a penalty for an act or
10 omission that is a nuisance or violation of the political subdivision's
11 enforceable ordinances or codes, subject to subsection (b).

12 (b) A penalty permitted under subsection (a) may not be
13 imposed until after:

14 (1) reasonable notice of the nuisance or violation has been
15 given to the owner or the owner's designee;

16 (2) passage of a reasonable time, which must be stated in the
17 notice, for the nuisance or violation to be cured; and

18 (3) failure of the nuisance or violation to be cured within the
19 time stated in the notice.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1403, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 4, after "pertaining" insert "**exclusively**".

Page 2, line 4, after "unit" insert "**or rental unit community**".

Page 2, line 13, delete "Except as provided in section 4.1 or 5 of this" and insert "**(a) A political subdivision may not require a rental unit's owner or landlord to do any of the following:**

(1) Except as provided in subsection (b), obtain a permit to lease the rental unit.

(2) Participate in a class or government program as a condition for leasing the rental unit.

(b) Notwithstanding subsection (a), a political subdivision may require a rental unit's owner or landlord to obtain a permit only as follows:

(1) A fee may not be charged to obtain a permit.

(2) Except when there is a change of ownership of the real property, a permit does not expire. A political subdivision may require a new owner of the real estate to obtain a new permit.

(3) Only one (1) permit may be required for a rental unit community."

Page 2, delete lines 14 through 19.

Page 3, line 9, after "to" insert "**the inspection of**".

Page 3, line 9, delete "either" and insert "**all**".

Page 3, delete lines 12 through 19, begin a new line block indented and insert:

"(2) The rental unit has been inspected or is part of a rental community that has been inspected during the previous twelve

(12) months by an inspector who satisfies any of the following:

(A) The inspector is employed by or performs inspections for government agencies, such as the United States Department of Housing and Urban Development and the Indiana Housing and Community Development Authority.

(B) The inspector is a registered architect.

(C) The inspector is a professional engineer.

(D) The inspector is employed by or performs inspections for financial institutions or insurance companies authorized to do business in Indiana.

(E) The inspector satisfies qualifications for an inspector



of rental units prescribed by the political subdivision.

(3) The inspector referred to in subdivision (2) has issued written verification to the owner or landlord of the rental unit or rental unit community (as applicable) that the rental unit or rental unit community meets or exceeds the standards described in subsection (b).

(b) An inspection report that shows that a rental unit or a rental unit community is safe and habitable with respect to the following satisfies a political subdivision's inspection requirement for the rental unit:

- (1) Electrical supply and electrical systems.
- (2) Plumbing and plumbing systems.
- (3) Water supply, including hot water.
- (4) Heating, ventilation, and air conditioning equipment and systems.
- (5) Bathroom and toilet facilities.
- (6) Doors, windows, stairways, and hallways.
- (7) Functioning smoke detectors.
- (8) Structure in which a rental unit is located.

A political subdivision may not add to the requirements of this subsection."

Page 3, line 20, delete "(b)" and insert "(c)".

Page 3, line 21, delete "upon receipt of a complaint that" and insert "if the political subdivision has reason to believe, or if the political subdivision receives a complaint that,".

Page 3, delete lines 34 through 42, begin a new paragraph and insert:

"(b) A political subdivision may impose on an owner or landlord of a rental unit an annual registration fee of not more than five dollars (\$5).

(c) A registration fee imposed under subsection (b) covers all the rental units in a rental unit community. However, if a rental unit is not part of a rental unit community, a registration fee may be imposed for each separate parcel of real property on which a rental unit is located.

(d) If the ownership of a rental unit community or the ownership of a parcel of real property on which a rental unit is located changes, a political subdivision may require the new owner of the rental unit community or new owner of the real estate parcel to:

- (1) pay an annual registration fee of not more than five dollars (\$5); and



**(2) provide updated registration information to the political subdivision;
not later than thirty (30) days after the change of ownership."**

Page 4, delete line 1.

and when so amended that said bill do pass.

(Reference is to HB 1403 as introduced.)

MAHAN, Chair

Committee Vote: yeas 7, nays 5.

